(2) By adding at the end thereof the following new subsection:

"(c) Small business investment company. In the case of a small business investment company, there shall be allowed as a deduction an amount equal to 100 percent of the amount received as dividends (other than dividends described in paragraph (1) of section 244, relating to dividends on preferred stock of a public utility) from a domestic corporation which is subject to taxation under this chapter."

(d) Section 246(b)(1) of the Internal Revenue Code of 1954 (relating to limitation on aggregate amount of deductions for dividends received) is amended by striking "243" wherever appearing and inserting in lieu thereof "243 (a) and (b)".

§ 20. Authority to Make Appropriations

The precedents in this section relate to the efforts of the Senate to originate appropriation measures.(12) Mr. Clarence Cannon has observed: (13)

> Under immemorial custom the general appropriation bills, providing for a number of subjects (14) as distinguished from special bills appropriating for single, specific purposes,(15) originate in the House of Representatives and there has been no deviation from that practice since the establishment of the Constitution.

Following the view expressed by Mr. Cannon, the House has returned Senate-passed general appropriation bills.(16)

The Senate has not always accepted the view that the House has the exclusive right to originate appropriation measures.(17)

Resolution Regarding Authority to Appropriate

§ 20.1 The Senate has adopted a resolution asserting that the power to originate appropriation bills is not exclusively in the House of Representatives but is shared by the Senate, and suggesting that an appropriate commission be established to study article I, section 7, clause 1, of the Constitution.

On Oct. 13, 1962,(18) the Senate by voice vote agreed to Senate Resolution 414, asserting the

12. See 2 Hinds' Precedents §§ 1500, 1501; and 6 Cannon's Precedents §§ 319–322, for earlier precedents.
13. Cannon's Procedure (1959) p. 20.
14. 4 Hinds' Precedents §§ 3566–3568.
15. Cannon's Precedents § 2285.
16. See § 20.3, infra.
17. See § 20.1, infra. See also Authority of the Senate to Originate Appropriation Bills, S. Doc. No. 17, 88th Cong. 1st Sess., Apr. 30, 1963.
18. 108 CONG. REC. 23470, 87th Cong. 2d Sess.

power of the Senate to originate bills appropriating money.[19]

ASSERTION OF THE POWER OF THE SENATE TO ORIGINATE BILLS APPROPRIATING MONEY FOR THE SUPPORT OF THE GOVERNMENT

MR. [RICHARD B.] RUSSELL [of Georgia]: Mr. President, I submit and send to the desk a privileged resolution, for which I request immediate consideration.

THE ACTING PRESIDENT PRO TEMPORE:[20] The resolution will be read.

The resolution (S. Res. 414) submitted by Mr. Russell was read, as follows:

Whereas the House of Representatives has adopted House Resolution 831 alleging that Senate Joint Resolution 234, a resolution continuing the appropriations for the Department of Agriculture, to be in contravention of the first clause of the seventh section of the Constitution and an infringement of the privileges of the House; and

Whereas this clause of the Constitution provides only that "All bills for raising revenue shall originate in the House of Representatives," and does not in anywise limit or restrict the privileges and power of the Senate with respect to any other legislation; and

Whereas the acquiescence of the Senate in permitting the House to first consider appropriation bills cannot change the clear language of the Constitution nor affect the Senate's coequal power to originate any bill not expressly "raising revenue"; and

Whereas the Committee on the Judiciary of the House of Representatives, pursuant to a directive of the House of Representatives, reported to the House in 1885 that the power to originate bills appropriating money from the Treasury did not reside exclusively in the House: Therefore be it

Resolved, That the Senate respectfully asserts its power to originate bills appropriating money for the support of the Government and declares its willingness to submit the issue either for declaratory judgment by an appropriate appellate court of the United States or to an appropriate commission of outstanding educators specializing in the study of

19. See 108 CONG. REC. 12898, 12899, 12904–11, 87th Cong. 2d Sess., July 9, 1962, for a resolution of the Senate Committee on Appropriations, setting forth areas of dispute between it and the House Committee on Appropriations, and resolving that among the issues to be discussed or negotiated between them was the power of the Senate to originate appropriation bills; a resolution of the House Committee on Appropriations suggesting negotiations on conference procedures between special committees of the House and Senate Committees on Appropriations; and the text of a report of the Committee on the Judiciary (H. Rept. No. 147, 46th Cong. 3d Sess., Feb. 2, 1881), in which the majority recommended adoption of a resolution stating that the Senate may originate appropriation bills and that the power to originate bills appropriating money is not exclusive in the House. 2 Hinds' Precedents § 1500 discusses this report.

For a recent discussion of this subject, see Authority of the Senate to Originate Appropriation Bills, S. Doc. No. 17, 88th Cong. 1st Sess., Apr. 30, 1963.

20. Lee Metcalf (Mont.).

the English language to be chosen in equal numbers by the President of the Senate and the Speaker of the House; and be it further

Resolved, That a copy of this resolution be transmitted to the House of Representatives.

THE ACTING PRESIDENT PRO TEMPORE: Without objection, the Senate will proceed to the immediate consideration of the resolution.

MR. RUSSELL: Mr. President, this resolution is just as self-explanatory, I believe, as the clause of the Constitution which is involved. I see no necessity for laboring it.

I move the adoption of the resolution. . . .

THE ACTING PRESIDENT PRO TEMPORE: The question is on agreeing to the resolution.

The resolution was agreed to.

Department of Agriculture Appropriation

§ 20.2 A Senate joint resolution making an appropriation out of the general funds of the Treasury was held to be an infringement of the privileges of the House, and was returned to the Senate.

On Oct. 10, 1962,(1) the House by a vote of yeas 245, nays 1, not voting 188, agreed to House Resolution 831, returning to the Senate Senate Joint Resolution 234, because it infringed upon the privileges of the House. The Senate joint resolution provided in part as follows:

That there is appropriated out of any money in the Treasury not otherwise appropriated, and out of the applicable corporate and other revenue . . . such amounts as may be necessary for continuing, during . . . 1963 . . . projects of the Department of Agriculture.

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I offer a privileged resolution (H. Res. 831) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That Senate Joint Resolution 234, making appropriations for the Department of Agriculture and the Farm Credit Administration for the fiscal year 1963, in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said joint resolution be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution.

MR. CANNON: Mr. Speaker, on October 4, 1962, the other body messaged to the House Senate Joint Resolution 234, now on the Speaker's table. This joint resolution is an infringement on the privileges of the House, as stated in section 7 of article I of the Constitution, under which the House of Representatives has always maintained the right to originate the appropriation bills.

The priority of the House in the initiation of appropriation bills is buttressed by the strongest and most im-

1. 108 CONG. REC. 23014–16, 87th Cong. 2d Sess.

pelling of all rules, the rule of immemorial usage. As Mr. Asher Hinds relates in section 1500 of volume II of "Hinds' Precedents" at page 973—while the issue has been raised a number of times—"there has been no deviation from the practice." . . .

THE SPEAKER PRO TEMPORE:[2] The question is on the resolution.

MR. CANNON: Mr. Speaker, on that ask for the yeas and nays.

The yeas and nays were ordered.

MR. [JOHN J.] ROONEY [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[3] The gentleman will state it.

MR. ROONEY: Would a yea vote be a vote to send Senate Joint Resolution 234 back to the Senate?

THE SPEAKER PRO TEMPORE: The gentleman has correctly stated the situation.

The question was taken; and there were—yeas 245, nays 1, not voting 188, as follows: . . .

So the resolution was agreed to.

District of Columbia Appropriation

§ 20.3 The House returned a Senate joint resolution which appropriated money from the District of Columbia general funds, on the ground that it invaded the prerogatives of the House.

On Mar. 12, 1953,[4] the House by voice vote agreed to House Resolution 176, to return to the Senate Senate Joint Resolution 52, appropriating money from the District of Columbia general fund.

MR. [JOHN] TABER [of New York]: Mr. Speaker, I rise to a question of privilege of the House and offer a resolution (H. Res. 176).

The Clerk read the resolution, as follows:

> *Resolved*, That Senate Joint Resolution 52, making an appropriation out of the general fund of the District of Columbia, in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said joint resolution be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution.

MR. TABER: Mr. Speaker, Senate Joint Resolution 52 was passed on Monday, providing an appropriation out of the general fund of the District of Columbia. It was not referred, as the rules require, to the Committee on Appropriations of the Senate, but was passed direct. This infringes the privileges of the House as set forth in section 7 of article I of the Constitution which gives the House of Representatives the privilege of initiating all appropriation bills.

This question was thoroughly discussed by the Honorable John Sharp Williams when he was a Member of the Senate back in 1912. He analyzed the authorities on that subject. The article was printed as a Senate document on July 15, 1919. The article discusses the situation in great detail, and there is no question about it. I hope that the resolution will be promptly adopted.

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2. Carl Albert (Okla.).

3. John W. McCormack (Mass.).

4. 99 CONG. REC. 1897, 1898, 83d Cong. 1st Sess.

Pursuant to the consent granted me, I submit herewith certain parts of Senator Williams' treatise:

> Mr. President, if the Senate can constitutionally originate general appropriation bills when money is in the Treasury, then it can do the same thing when there is no money in the Treasury; and thus this body, representing the States and not the people, representing chiefly the smaller States, could force either Federal insolvency, not to be thought of, or else could force the House to levy new or additional taxes; thus force the House to originate tax bills. The two things hang together. If this Senate could originate general supply bills, then it could commit the Government to a course of expenditure that would coerce the House not only into originating but into passing tax bills.
>
> As Seward well says, speaking of the long practice under which the House always insisted upon and the Senate always conceded, the right of the House to originate general appropriation bills:
>
> "This [practice] could not have been accidental; it was therefore designed. The design and purpose were those of the contemporaries of the Constitution itself. It evinces their understanding of the subject, which was that bills of a general nature for appropriating the public money or for laying of taxes or burdens on the people, direct or indirect in their operation, belonged to the province of the House of Representatives." (See Congressional Record, vol. 16, pt. 2, p. 959.)
>
> He added:
>
> "If this power be confined to the one and not to the other, that is, to the levying of taxes to get money, but not to its expenditure, then the right is useless, because we change revenue laws so seldom."
>
> This criticism of Seward's is correct, although it was made in view of what occurred later and not of what was in the minds of the framers of the Constitution. I believe it is not too much to say that, in the minds of the framers of the Constitution, a bill to raise revenue was a budget; that is, a bill levying taxes and at the same time appropriating the proceeds of the levy, because such was the contemporaneous practice.
>
> Mr. Sumner, of Massachusetts, said that he regarded the Senate origination of general appropriation bills as "a departure from the spirit of the Constitution" (ibid.).
>
> Mr. Hinds, in his incomparable work, in a note at the bottom of page 973, volume 2 [§ 1500], concerning the question of the right of the House to originate general appropriation or supply bills, says: "But while there has been a dispute as to the theory, there has been no deviation from the practice that the general appropriation bills originate in the House of Representatives." He expressly uses this phrase as contradistinguished from special bills appropriating for single, specific purposes.
>
> It is well to remember in this connection the Hurd resolution of January 13, 1885,[5] which was laid on the table in the House. The fact that it was laid upon the table has been quoted very frequently, but the resolution was directed at Senate bill 398 (the Blair educational bill). It was not a supply bill, but a bill of specific appropriation; not a bill for carrying on the Government any more than a bill making appropriation for a public building would be a bill for carrying on the Government.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. Cannon].

MR. [CLARENCE] CANNON: Mr. Speaker, this is not an inconsequential

5. See 2 Hinds' Precedents § 1501 for discussion of this incident, which actually occurred on Jan. 23, 1885.

matter. It is fundamental in the practice of the House and is supported by the strongest rule known in parliamentary procedure, the rule of immemorial usage. A great many precedents could be recited, but the whole matter is summed up in a comment by the former Parliamentarian of the House, Asher Hinds, who knew more about procedure and had more to do with establishing the orderly procedures of the House than any man in American history with the single exception of Vice President Jefferson. . . .

In summing up the whole question Asher Hinds said:

> There has been some debate about the theory of restricting the origin of appropriation bills to the House but there has been no deviation in the practice.

As Mr. Hinds pointed out, this rule is one of the rules which came down to us from the English Parliament. . . .

[The House of] Commons through the years began to assert and eventually maintained through debate and by the sword the primacy of the House in the origin of money bills, the levying of taxes, and the appropriation and expenditure of revenues.

Whenever the Commons became too insistent on the redress of grievances and began to protest too vigorously the chronic denial of justice, the King would prorogue Parliament and send them home. But inevitably the forced loans, the sale of privileges, and the money borrowed at usurious rates of interest dwindled and as a last resort the King would be compelled to convene Parliament. In that day, as now, the control of the purse strings was the only recourse of the people. It was and is the primary prerogative of democracy and the one effective weapon in defense of rights and liberties of a free nation.

. . . The Representatives in the House, elected by the people every 2 years, should have exclusive rights in the origination of appropriation bills. I hope the resolution of the gentleman from New York will be agreed to.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, will the gentleman yield?

MR. TABER: I yield.

MR. MCCORMACK: Mr. Speaker, I am sure when my friend, the gentleman from New York [Mr. Taber] and my friend, the gentleman from Missouri [Mr. Cannon] agree that the House of Representatives must, indeed, have a sound case. But will the gentleman, for the record, state just what part of this resolution, which has come from the other body, violates the long standing custom and usage and practice of the Congress?

MR. TABER: This resolution, Mr. Speaker, in its entirety, violates the practice. There is no part of it which could be construed as covering anything else or any other subject matter.

MR. MCCORMACK: Mr. Speaker, the gentleman's statement satisfies me.

MR. TABER: Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER:[6] The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 20.4 After receiving a Senate joint resolution which had

6. Joseph W. Martin. Jr. (Mass.).

been returned on the ground that it infringed upon the prerogative of the House to originate revenue-raising bills, the Senate entertained a discussion of its prerogative to originate bills affecting the revenue of the District of Columbia.

On Mar. 16, 1953,[7] the prerogative of the Senate to originate bills affecting the revenue of the District of Columbia was discussed.

MR. [ROBERT C.] HENDRICKSON [of New Jersey]: Mr. President, on Monday, March 9, the Senate passed by unanimous consent Senate Joint Resolution 52, which was thereafter transmitted to the House. This resolution appropriated $17,000 out of the general fund of the District of Columbia for the operation of the Office of Rent Control in the District of Columbia.

On March 12 the House passed House Resolution 176, returning Senate Joint Resolution 52 to the Senate on the ground that it "contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House."

I invite the attention of the Senate to a similar situation which obtained during the 82d Congress. On May 7, 1952, the Senate considered and passed S. 2703 which would increase the District of Columbia gasoline tax from 4 to 5 cents per gallon. At that time the House refused to consider S. 2703, also on the ground that it contravened the constitutional provision referred to in House Resolution 176.

It is suggested that the issue thus raised on two occasions within the past year by the House of Representatives involves not only a parliamentary question but a constitutional question as well.

Indeed, these recent House actions appear to constitute a challenge to the concept that home rule may be achieved in the District of Columbia by means short of a constitutional amendment.

The issue of whether such legislation can originate in the Senate was one aspect of the routine analyses the Republican calendar committee gave to these bills. Their consideration of the bills included a routine discussion of the parliamentary question with the Parliamentarian of the Senate, Mr. Charles L. Watkins. He stated that article I, section 7 of the Constitution does not apply to such bills. He reasoned that the bills do not contemplate the raising of Federal revenue; that they are limited in their application to the District of Columbia; and that, as such, like any other bill affecting the District, the Senate may initiate such legislation. . . .

Article I, section 7, paragraph 1, of the Constitution provides as follows:

> All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Article I, section 8, paragraph 17, provides Congress with power—

> To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding 10 miles square)

7. 99 CONG. REC. 1978, 1979, 83d Cong. 1st Sess.

> as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States.

It is well established that the various provisions of the Constitution must be harmonized.

> In expounding the Constitution of the United States every word must have its due force, and appropriate meaning; for it is evident from the whole instrument, that no word was unnecessarily used, or needlessly added. The many discussions which have taken place upon the construction of the Constitution, have proved the correctness of this proposition; and shown the high talent, the caution, and the foresight of the illustrious men who framed it. Every word appears to have been weighed with the utmost deliberation, and its force and effect to have been fully understood. (*Holmes* v. *Jennison* ((1840) 14 Peters 540, 570); see also *Cohens* v. *Virginia* ((1821) 6 Wheat 264).)

There is no conflict whatever between the two provisions of the Constitution cited above, and where Congress exercises exclusive legislative power over the District of Columbia, article I, section 7, of the Constitution does not apply.

Only one case comes to hand that construes article I, section 7 of the Constitution. In *Hubbard* v. *Lowe* ((1915) 226 Fed. 135), the District Court for the Southern District of New York had before it a challenge to the validity of a statute dealing with contracts for cotton futures. A bill which originated in and passed the Senate called for their exclusion from the mails. The House struck out all after the enacting clause and inserted a substitute by way of a prohibitive tax. The House version was the one which was ultimately enacted. The court in that case threw out the statute as being unconstitutional, since prior to enactment it had a Senate number—S. 1107. The question became moot because of the enactment shortly thereafter of a revenue bill which dealt with the problem of cotton futures.

It will be recalled that some years ago the Congress provided by statute for the establishment of local government in the District of Columbia. The legislative body of that government passed revenue and appropriation measures. In this connection, attention is directed to an 1885 decision in the case of the *District of Columbia* v. *Waggaman* (4 Mackey 328). The following is quoted from that decision:

> We have to consider first, then, the validity of the act of the legislative assembly which imposed this tax on commissions earned by real-estate agents, and required a semi-annual return of those commissions and a bond to secure the performance of these and other acts prescribed by law.
>
> In *Roach* v. *Van Riswick* (7 Wash. L. Rep., 496), this court held that the very broad terms in which the organic act of 1870 granted legislative powers to the legislative assembly had the effect to clothe that body with only such powers as might be given to a municipal corporation, and that it was not competent for Congress to delegate the larger powers of general legislation which it had itself received from the Constitution. We are still satisfied with that decision; but we hold, on the other hand, that the provision referred to had the effect to bestow every power of municipal legislation which could be given to a municipal corporation, and especially the power of taxation and implied or included

> power to provide measures by which taxes may be enforced and collected. Section 49 of the organic act provided that "the legislative power of the District shall extend to all rightful subjects of legislation within the District, consistent with the Constitution of the United States and the provisions of this title"; and section 57 provided that "the legislative assembly shall not have power to tax the property of the United States, nor to tax the lands or other property of nonresidents higher than the lands or other property of residents."

The court referred to the legal tender cases and then went on to state that "the general grant of power to legislate on all rightful subjects, and so forth, is by inclusion, an express grant of power to legislate on this subject of taxation, except as limited in section 57." There is another case which bears on the subject, namely, *Welsh* v. *Cook* (97 U.S. 541, 542) [1879].

It can thus be seen that a local legislative body in the District of Columbia was given authority to enact revenue legislation affecting the District of Columbia; that pursuant to such authority that local legislative body enacted such revenue legislation; and the cited cases established judicial sanction for such enactment. If a local legislative body can pass valid revenue legislation for the District of Columbia, it appears equally clear that the Senate of the United States has authority to initiate a revenue bill concerning the District of Columbia. That conclusion certainly would be consistent with the Senate's share of responsibility in exercising exclusive legislative power over the District under article I, section 8, paragraph 17, of the Constitution.

There is a further aspect to the issue raised by the House last week in connection with Senate Joint Resolution 52. This is the question whether an appropriation bill comes within the purview of article I, section 7, paragraph 1 of the Constitution, relating to the raising of revenue. However, the issue of whether a general appropriation bill may originate in the Senate, notwithstanding long established custom to the contrary, warrants much fuller discussion than will here be made. As a Member of the Senate, I categorically dispute the House's contention in respect to Senate Joint Resolution 52.

The Senate did not take further action on Senate Joint Resolution 52.

D. CONGRESS AND THE BUDGET; IMPOUNDMENT

§ 21. In General; Congressional Budget Act

Concern about escalating federal spending immediately after World War II resulted in enactment of a budget procedure in the Legislative Reorganization Act of 1946. Under this procedure, the House Committee on Ways and Means and Committee on Appropriations, and the Senate Committee on Finance and Committee on Appropriations or their sub-